

PROCEEDINGS OF THE CITY COUNCIL  
Rapid City, South Dakota  
March 2, 2004

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Rapid City was held at the City/School Administration Center in Rapid City, South Dakota on Tuesday, March 2, 2004 at 7:00 P.M. (Meeting Continued from March 1, 2004 because of blizzard conditions.)

The following members were present: Mayor Jim Shaw and the following Alderpersons: Alan Hanks, Jean French, Sam Kooiker, Tom Murphy, Bill Waugh, Martha Rodriguez, Ray Hadley and Jeff Partridge. The following Alderpersons arrived during the course of the meeting: Rick Kriebel; and the following were absent: Ron Kroeger.

Staff members present included Asst. Finance Officer Coleen Schmidt, Growth Management Director Marcia Elkins, City Attorney Jason Green, Police Captain Ed Hofkamp, Fire Chief Gary Shepherd, Engineering Division Manager Dan Coon and Administrative Assistant Jeri Lynn.

***Approval of Minutes***

Motion was made by Hanks, seconded by French and carried to **approve the minutes** of February 16, 2004.

***Adoption of the Agenda***

The following items were added to the agenda:

- Use of Water Bill for access to the Landfill
- Approve Updated CIP Spreadsheet
- Approve Revisions to the Streets & Drainage Line Item
- Executive Session to discuss personnel issues
- Redistricting
- Street Department

Motion was made by Hanks, seconded by Rodriguez and carried to approve the agenda, with the additions noted.

***Awards and Recognitions***

Mayor Shaw reported that the Citizen of the Month Award for March will be presented at a future meeting.

Rod Johnson updated the Council on the **2012 Projects** currently under construction.

***General Public Comment***

Ron Glasscock, representing the Citizens for a Safe Community, thanked the City Council for passage of the ordinance regulating **adult oriented businesses**. He stated that Rapid City is to be commended for its leadership, and surrounding communities have been inspired to take back control of their areas by regulating AOBs. Glasscock asked for information on the number of violations and related citations that have been issued since the ordinance went into effect. He also requested that the city consider putting the original "teeth" back into the ordinance regulating adult oriented businesses. Motion was made by French and seconded by Hanks to direct the City Attorney to bring back the October 8<sup>th</sup> version of the AOB ordinance so the City Council can take a look at it. Rodriguez stated that this is a

controversial issue and should be referred to the AOB Committee which is charged with reviewing issues relative to adult oriented businesses. French stated that her understanding is that the AOB Committee is charged with reviewing new issues. The issues in the October 8th version are not new and have already been addressed by the previous AOB Committee. Murphy agreed that any changes to the current AOB ordinance should go through the Committee. Hanks concurred noting that it would be helpful to have a side by side comparison of the existing ordinance and the October 8<sup>th</sup> proposal. Substitute motion was made by Partridge, seconded by Rodriguez and carried to refer this item to the AOB Committee and task them with reviewing the October 8<sup>th</sup> version of the ordinance.

Motion was made by Kooiker, seconded by Hanks and carried to ask the Police Chief to give a report on **enforcement of the AOB Ordinance** at the next Council meeting he is able to attend.

Bridgett Stanley and Lori Durr, owners of **Fjord's Ice Cream**, thanked the City Council for their support in the attempt to rezone property along Canyon Lake Drive. Stanley explained that it was clear in the first ten minutes of the hearing before the Planning Commission that they were opposed to the rezone of this property. After explanations, information and additional discussion, it seemed that some members of the Planning Commission were changing their minds. Stanley stated that when they realized the meeting wasn't going well, they asked that the Commission take a vote on the rezone application. This request was ignored, even though the applicants asked for a vote several times. The result of the action was a continuance to April 5, 2004 and a request that the petitioners submit a PDD application. Had they known this was going to be requested, it could have been done at the beginning of the process and saved a great deal of time. Stanley stated that she feels this process could have been different had they been allowed to speak to the Planning Commission members ahead of time. She is advocating for a change in the Planning Commission procedure. The information the Planning Commission members receive prior to the hearing is from staff and is at times filtered. For instance relative to Fjord's rezone request, the Planning Commission was not told that the City Council voted unanimously to approve first reading of the rezone ordinance, and that there is an application on file to locate 18 apartments on this property. Stanley added that she feels if the petitioner requests a vote on an item, that request should be granted. Hanks stated that when individuals are appointed to the Planning Commission, they are told they should avoid ex-parte communications whenever possible because they are dealing with the rules adopted by the city. They are charged with applying those rules to the application before them. Also, relative to this particular property, the PDD for apartment buildings which is on file with the city is more than two years old and, therefore, invalid. If a developer wanted to put apartments on this site, he would have to apply to the city for the proper authorizations. Staff explained that the first reading of a rezone ordinance is basically an action from the Council to set the public hearing. There is no information available to the Council at that time including staff reports. Elkins added that it is unusual for the public to speak at first reading of a rezone ordinance. Michael Durreso also spoke in favor of streamlining these processes to assist individuals who are trying to develop within the city limits. Rodriguez asked if the applicants were given all the information when they initially applied for the rezone. Elkins explained that staff met with the applicants and expressed concerns with the proposal since it was not consistent with the comprehensive plan. They also explained that there were public meetings held where property owners had expressed concerns about commercial intrusions into this neighborhood. Elkins stated that the applicants were aware that staff would have difficulty supporting the proposal. No further comments were made.

The next item on the agenda was a monthly update from the **Economic Development Office**. No one was present for this presentation.

***Bid Openings***

The following vendors submitted bids for No. CC030104-02 - **Meadowbrook Golf Course Cart Storage Building** No. 2 Project No. GC04-1366, which were opened on February 26, 2004: 1) Lost Cabin/Lipp Const.; and 2) Corr Construction. Staff has reviewed the bids and recommends award to Lost Cabin Constructors. Motion was made by Hanks and seconded by French to award the bid for Project No. GC04-1366 to Lost Cabin Constructors, the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$139,900. Kooiker spoke against the motion on the floor because sprinklers were not required. Upon vote being taken, the motion carried with Kooiker voting no.

The following vendors submitted bids for No. CC030104-02 – **Rapid City Library** Remodel and Chiller Replacement Project No. IDP03-1337, which were opened on February 26, 2004: 1) Wolff's Plumbing & Heating; 2) Action Mechanical; 3) Tessier's; and 4) Mountain Movers Const., Inc. Schmidt explained that the engineer's estimate was \$108,750 and the low bid is \$128,300. The Library Board is committing the auxiliary funds of the library to ensure that this project is done. Staff is recommending that the project be awarded to Action Mechanical. Motion was made by Rodriguez, seconded by Partridge and carried to award the bid for IDP03-1337 to Action Mechanical, the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$128,300.

The following vendors submitted bids for No. CC030104-02, **Waterloo Street and Utility Reconstruction Project**, Project No. SSW03-1084, which were opened on February 26, 2004: 1) Mainline Contracting; 2) Sitework Specialists; 3) Hills Materials Company; 4) Simon Contractors of SD; 5) Heavy Constructors and 6) RCS Construction. Staff has reviewed the bids and recommends award to RCS Construction. Motion was made by Rodriguez, seconded by Waugh and carried to award the bid for SSW03-1084 to RCS Construction, the lowest responsible bidder meeting specifications, based on their low unit prices bid, for a total contract amount of \$436,120.20.

***Items from Council Members/Liaison Reports***

Motion was made by Kooiker and seconded by French to request that the City Attorney's Office bring forward **ordinance amendments** that would a) create an appeal process for continuations; b) require the Planning Commission to ask applicants if they want action on the item rather than a continuation, and require the Planning Commission to act if the applicant asks that the item not be continued; and c) allow for PDDs to be added to rezoning requests. Hanks stated that this is a very broad subject that needs further research and discussion. Substitute motion was made by Murphy, seconded by Hanks and carried to request that staff bring forward recommendations on this issue, including a list of pros and cons with making these changes.

Alderman French suggested that the City establish a policy clarifying how long a **water bill** will authorize one free use of the City's landfill. Motion was made by French and seconded by Murphy to allow the use of a water bill for a one year time frame to enter the landfill (on Saturdays). Substitute motion was made by Hanks and seconded by Waugh to allow water bills to be valid for access to the landfill for up to 90 days. Discussion continued. City Attorney Green noted that this item was added to the agenda and no formal notice was given to the public. He recommended that it be referred to committee. Substitute motion was made by Waugh, seconded by Hadley and carried to refer this issue to the Public Works Committee for further discussion.

Kooiker noted that the ordinance putting **newly annexed areas** into city wards and precincts needs to be addressed by the City Council. Motion was made by Kooiker and seconded by Hadley to bring forward the ordinance again for first reading, with the change so that the

wards are contiguous, and to the greatest degree possible, provide for a secret ballot. City Attorney Green explained that it is appropriate for the Council to direct that the ordinance be brought back for consideration. However, any changes to the ordinance would need to be made by the council after public notice. Green stated that it would be inappropriate at this time for the council to direct that changes be made to the ordinance since it is not in front of the Council at this time. Green added that changes can certainly be presented for consideration at the next committee meeting when this issue will be on the agenda. Kooiker restated the motion to bring forward the ordinance at the next Legal & Finance Committee meeting for first reading, and request that staff draft amendments so that the wards are contiguous, and to the greatest extent possible, will allow citizens to cast a secret ballot. Upon vote being taken, the motion carried unanimously.

Rodriguez commended the employees of the **Street Department** for the great job they did in getting snow removed from the city's streets. She added that she received many phone calls saying that the Street Department did an outstanding job. Hadley also commended the Street Department for outstanding work in getting the recent snow removed from the streets. He added that many streets were cleared that don't typically get this service. Hadley stated that the city should make sure that every street is cleared and open before second passes are made on some streets. He asked for information on the Street Department's policy for moving the snow removal equipment around the city.

### ***Continued Items Consent Calendar – Items 8-27***

The following items were removed from the Continued Items Consent Calendar:

26. No. 04CA002 - A request by Stanley & Durr LLC dba Fjords Ice Cream Factory for an **Amendment to the Comprehensive Plan to change the future land use designation on a 0.932 acre parcel of land from Residential to Neighborhood Commercial** on Lots 1 and 2, Mediterranean Subdivision, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1805 and 1815 38th Street.
27. No. 04RZ002 – Second Reading, **Ordinance 4026**, a request by Stanley & Durr LLC dba Fjords Ice Cream Factory for a **Rezoning from Medium Density Residential District to Neighborhood Commercial District** on Lots 1 and 2, Mediterranean Subdivision, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1805 and 1815 38th Street.

Motion was made by Hanks, seconded by French and carried to continue the following items, as noted:

### Continue the following items until March 15, 2004:

8. No. 02PL116 - A request by Dream Design International, Inc. for a **Final Plat** on Lot 1, Block 1; Lots 1 thru 5, Block 2; Lots 1 and 2, Block 3; Lots 1 and 2, Block 4; Lots 1 thru 4, Block 5; Lot 1, Block 6 and dedicated Street, Big Sky Business Park, located in the SW1/4 SW1/4 and the S1/2 NW1/4 NW1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the W1/2 SW1/4 NW1/4 including private drive, less Lot H2 and less right-of-way; the unplatted portion of the E1/2 SW1/4 NW1/4; and the unplatted portion of the S1/2 GL3; S1/2 GL4 less Lot 1 and less Lot H3; SE1/4 NW1/4 less Big Sky Subdivision and less right-of-way; all located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located east of the intersection of Homestead Street and Elk Road.
9. No. 03PL035 - A request by Renner & Sperlich Engineering Company for Dean Kelly for a **Final Plat** on Lots B and C of Lot 6, Miracle Pines Subdivision located in the NE1/4 NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 6 of Miracle Pines Subdivision located in the NE1/4

NW1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 3960 Corral Drive.

10. No. 03PL042 - A request by Renner and Sperlich Engineering Co. for Gordon Howie for a **Layout, Preliminary and Final Plat** on Lots 1 thru 5 of Block 18, Lots 1 thru 6 of Block 19, Lot 1 of Block 20, and Lots 1 thru 12 of Block 21, and Drainage Lot A, Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as the balance of Tract T of Trailwood Village, located in the E1/2 of the SE1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, located west of the intersection of Pluto Drive and Reservoir Road.
11. No. 03PL045 - A request by Michael Hanson for Kent Hagg Esq. for Burnell A. Lutz for a **Preliminary and Final Plat** on Lots A and B of Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot K1-E of Lot K-1 in Marshall Heights Tract, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1903 North Maple Avenue.
12. No. 03PL050 - A request by Mark Polenz for Daniel Schoenfelder for a **Preliminary Plat** on Lot A and Lot B of Schoenfelder Subdivision all located in the NW1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, legally described as Lot 1 of Lot C of Schamber Section 9 NW1/4 SE1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County South Dakota, located at 3505 Western Avenue.
13. No. 03PL051 - A request by Doug Sperlich for Jeff Stone for a **Final Plat** on Lots 1, 2 and 3 of Block 1 of Sunset Heights Subdivision, located in the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the SW1/4 of the SE1/4 of Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the current terminus of Broadmoor Drive.
14. No. 03PL052 - A request by Dream Design International, Inc. for a **Final Plat** on Lots 1-4, Block 1 and Outlot D; Lots 1-7, Block 2; Lots 1-3, Block 3, of Stoney Creek South Subdivision and Dedicated Bendt Drive and Major Drainage Easements located in the NW1/4 SW1/4 and the SW1/4 SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the unplatted balance of the S1/2 NW1/4 SW1/4 less Lots H1 and H2, Section 22, T1N, R7E; a portion of the unplatted balance of the N1/2 NW1/4 SW1/4 located south of Catron Boulevard, Section 22, T1N, R7E; a portion of the unplatted balance of the E1/2 SW1/4 less Stoney Creek Subdivision and less Lot H2, Section 22, T1N, R7E; and, a portion of the unplatted balance of the SW1/4 SW1/4 less Lot H1 and Lot P1, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located southeast of Sheridan Lake Road and Catron Boulevard.
15. No. 03PL063 - A request by Fisk Land Surveying and Consulting Engineers for Dakota Land Development for a **Final Plat** on Lots 1 thru 3, Vista Lake Subdivision #2, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 1 and a portion Lot F-1 of the Fish Hatchery Subdivision, located in the NE1/4 SW1/4 and the N1/2 SE1/4 of Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Jackson Boulevard north of the Fish Hatchery.
16. No. 03PL088 - A request by Dream Design International, Inc. for Sally Broucek for a **Final Plat** on Lots 1 thru 10 of Block 1 and Lots 1 thru 19 of Block 2 of Stoneridge

Subdivision located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the W1/2 of the S1/2 of Government Lot 4 located in the SW1/4 of the SW1/4 of Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located at the end of Parkview Drive.

17. No. 03PL094 - A request by Renner and Sperlich Engineering Company for 16 Plus LLP for a **Preliminary and Final Plat** on Lot 2, Moon Ridge Subdivision, located in the NE1/4 of the SE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of Tract 2 of Pioneer Subdivision located in the NE1/4 of the SE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located northwest of U.S. Highway 16 and Moon Meadows Road.
18. No. 03PL097 - A request by Renner & Sperlich Engineering Company for Doeck, LLC for a **Final Plat** on Lots 12-21 Block 1, Lots 12-40 Block 2, Lots 1-12 and 21-24 Block 3, and Lots 1, 13, 14, 30 and 31 Block 5 of Auburn Hills Subdivision, located in the NW1/4 of SW1/4 and the SW1/4 of NW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the SW1/4 and the SW1/4 of the NW1/4 located in the NW1/4 of SW1/4 and the SW1/4 of NW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of Haines Avenue and north and south of Amber Drive.
19. No. 03PL099 - A request by FMG, Inc. for Bill Freytag for a **Final Plat** on Lots 6 through 9 of Block 4 and Lot 21R of Block 1 and Lot 22R of Block 1, Tyler Knue Subdivision, located in NW1/4 NW1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 21 and a portion of Lot 22 of Block 1 and a portion of Lot 22 of Block 1 and a portion of the unplatted balance of the NW1/4 NW1/4 all of Tyler Knue Subdivision and dedicated public right of way shown as Nicole Street, located in NW1/4 NW1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Nicole Street.
20. No. 03PL104 - A request by Dream Design International, Inc. for a **Final Plat** on Lot 13 and Tract A, Block 4; Lots 6 thru 12, Block 16; Lots 1A thru 12A, Lots 1B thru 12B, and Tract B, Block 18; Tract C and Dedicated Streets; Big Sky Subdivision, located in the N1/2 NW1/4 SE1/4 and the SW1/4 NE1/4 of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted portion of the SW1/4 NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, the unplatted portion of the NW1/4 SE1/4 less Big Sky Subdivision, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Patricia Street, Aurora Drive and Carl Avenue.
21. No. 03SV035 - A request by Renner and Sperlich Engineering Company for 16 Plus LLP for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement on the section line highway and to waive the requirement to install curb, gutter, sidewalk and street light conduit on U.S. Highway 16 as per Chapter 16.16 of the Rapid City Municipal Code** on a portion of Tract 2 of Pioneer Subdivision, located in the NE1/4 of the NE1/4, Section 34, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; more fully described as follows: Commencing at a point on the section line highway between Sections 27 and 34, common to northeasterly corner of said Tract 2 of Pioneer Subdivision, and the Point of Beginning; thence, first course: S00°00'00"E, along the easterly boundary of said Tract 2 of Pioneer Subdivision, common with the westerly edge of the statutory section line right-of-way, and common with the westerly edge of U.S. Highway 16 right-of-way, a distance of 109.69 feet, to an angle point; thence, second course: S07°20'00"W, along the easterly boundary of

said Tract 2, common with the westerly edge of the right-of-way of U.S. Highway 16, a distance of 303.97 feet, to the northeasterly corner of Lot 3 of Moon Ridge Subdivision; thence, third course: S89°53'10"W, along the northerly boundary of said Lot 3 of Moon Ridge Subdivision, a distance of 1247.37 feet, to a point on the westerly boundary of said Tract 2, common with the northwesterly corner of said Lot 3 of Moon Ridge Subdivision; thence, fourth course: N00°11'53"E, along the westerly boundary of said Tract 2, a distance of 411.10 feet, to a point on the section line common to Section 27 and 34, common to a point the southerly boundary of Lot 5 of Godfrey Addition, and common to the northwesterly corner of said Tract 2; thence fifth course: N89°52'53"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, and common with the southerly boundary of Lots 4 and 5 of said Godfrey Addition, a distance of 796.18 feet, to an angle point; thence, sixth course: N89°50'57"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, and common with the southerly boundary of Lots 3 and 4 of said Godfrey Addition, a distance of 466.12 feet, to an angle point; thence, seventh course: S89°10'40"E, along the northerly boundary of said Tract 2, common to the section line between Sections 27 and 34, a distance of 22.45 feet, to the northeasterly corner of said Tract 2, and the Point of Beginning; said parcel contains 12.00 acres more or less, located northwest of U.S. Highway 16 and Moon Meadows Road.

22. No. 03SV039 - A request by Gordon Howie for Galen Steen for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sewer, water, street light conduit, sidewalk and pavement as per Chapter 16.16 of the Rapid City Municipal Code** in the SW1/4 NE1/4; the west 66 feet of the NW1/4 NE1/4, Section 25, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, a portion of the E1/2 of Section 25, located in the E1/2 Section 25, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; more fully described as follows: Commencing at the center 1/4 corner of Section 25, and the Point of Beginning, thence, first course: N90°00'00"E, along the 1/4 line of Section 25, a distance of 396 feet; thence, second course: S00°00'00"W, a distance of 624.43 feet; thence, third course: N90°00'00"W, a distance of 396.00 feet, to a point on the 1/4 line of Section 25; thence, fourth course: N00°00'00"E, along the 1/4 line of Section 25, a distance of 624.43 feet, to the center 1/4 corner of Section 25, and the point of beginning; said parcel contains 5.677 acres more or less, located southeast of the intersection of Anderson Road and South Side Drive.
23. No. 03SV050 - A request by Fisk Land Surveying & Consulting Engineers Inc. for Rapid City Congregation of Jehovah's Witnesses for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement as per Chapter 16.16 of the Rapid City Municipal Code** on Lot 1 Revised of Block 7 of Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lots 1 thru 4, Block 7; and, Lots 5 and 6, Block 8; all located in Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located west of West Boulevard North along Oriole Drive and Thrush Drive.
24. No. 04PL003 - A request by Sperlich Consulting, Inc. for Gordon Howie for a **Layout and Preliminary Plat** on Lots 1, 2 and 3 of Block 22, Trailwood Village located in the E1/2 of the SE1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, legally described as a portion of Tract T of Trailwood Village located in the E1/2 of the SE1/4, Section 10, T1N, R8E, BHM, Pennington County, South Dakota, located along Williams Street.
25. No. 04SV001 - A request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter,**

**sidewalk, sewer, water, street light conduit and pavement along the eastern 115 feet of Homestead Street as per Chapter 16.16 of the Rapid City Municipal Code** on the unplatted portion of the SW1/4 NE1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, located along Homestead Street.

#### End of Continued Items Consent Calendar

The Mayor presented No. 04CA002, a request by Stanley & Durr LLC dba Fjords Ice Cream Factory for an **Amendment to the Comprehensive Plan to change the future land use designation on a 0.932 acre parcel of land from Residential to Neighborhood Commercial** on Lots 1 and 2, Mediterranean Subdivision, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1805 and 1815 38th Street. Partridge asked if it is possible for the City Council to approve this item tonight. Elkins explained that she reviewed the city ordinances with City Attorney Green and the ordinance specifically states that the Planning Commission is required to make a recommendation to the City Council prior to any final action on an amendment to the comprehensive plan. The Planning Commission continued this item to their meeting on March 25<sup>th</sup> and no recommendation is available at this time. She added that the City Council could schedule special meetings after March 25<sup>th</sup> if they want to expedite the process. Hadley asked why the Planning Commission continued this item. Elkins explained that Future Land Use Committee recommended denial of the application. There was considerable discussion at the Planning Commission meeting on this issue as well as comments made at previous public hearings relative to general commercial intrusions into the neighborhood. Elkins stated that the Planning Commission felt it would be appropriate to consider Fjords as a special case that would be appropriate at this location. However, there were concerns about the wider range of neighborhood commercial uses that would be allowed at this location, if the Fjords project was not successful. The Planning Commission's discussion was looking for ways to limit the use to an ice cream facility such as Fjords and that is the reason for the continuance; to allow the petitioner to submit an application for a planned development designation. A PDD allows the city to restrict the types of uses allowed on the property. Hadley asked why the Planning Commission did not vote on this item since there was no one speaking against the issue. Elkins explained that the Council's action on first reading has been determined to be a routine set for hearing action. No information is available to the Council at this time and no notice has been given to the public on the issue. In terms of the Planning Commission, Elkins stated that she feels they were trying to balance the interests of the neighborhood and concerns that have been expressed during the land use planning meetings that were held in this neighborhood with the desire of the applicant. The Planning Commission felt that the applicant's proposal could be allowed in a way that would be appropriate for the neighborhood while the entire range of uses in the Neighborhood Commercial zoning district may not be appropriate. The Planning Commission was trying to balance the various interests and work with the applicant to move this project forward. Elkins stated that she believes it was the intent of the Planning Commission to work with the applicant and find a way to recommend approval of the request in a constructive fashion. Kooiker referenced the "smoke-out" provisions of the Council's policy which were recently adopted. Motion was made by Kooiker and seconded by Hadley to approve this item. City Attorney Green explained that the provisions in the Council's procedures apply to committees that are created by the Council, not to committees that are created by state statute. Therefore, the smoke-out provision is not applicable to items before the Planning Commission. Mayor Shaw ruled the motion out of order. Motion was made by Murphy and seconded by Hanks to continue this item, as well as Item No. 27. (No. 04RZ002) to April 5, 2004. Waugh called the question and there were no objections. Upon vote being taken, the motion carried unanimously.

The next item on the agenda was No. 04RZ002, second reading of **Ordinance 4026**, a request by Stanley & Durr LLC dba Fjords Ice Cream Factory for a **Rezoning from Medium Density Residential District to Neighborhood Commercial District** on Lots 1 and 2, Mediterranean Subdivision, Section 4, T1N, R7E, BHM, Rapid City, Pennington County,



South Dakota, located at 1805 and 1815 38th Street. This item was continued to April 5, 2004 in conjunction with Agenda Item No. 26.

### ***Alcoholic Beverage License Applications***

#### ***Hearings***

This was the time set for hearing on the application of Ristorante Marsala, LLC dba **Ristorante Marsala**, 609 Main Street, for an On-Sale Wine License (New License – No Video Lottery). Upon motion made by Hanks, seconded by Murphy and carried, the Council approved the application.

This was the time set for hearing on the application of Ristorante Marsala, LLC dba **Ristorante Marsala**, 609 Main Street, for an On-Off Sale Malt Beverage License (New License – No Video Lottery). Upon motion made by Hanks, seconded by Rodriguez and carried, the Council approved the application.

Upon motion made by Hanks, seconded by Rodriguez and carried, the Finance Officer was directed to publish notice of hearing on the following applications, said hearings to be held on Monday, March 15, 2004:

- 30. Mary Jane Freimark dba **The Embers**, 5412 South Highway 16, for an On-Off Sale Malt Beverage License (New License – No Video Lottery)
- 31. Mary Jane Freimark dba **The Embers**, 5412 South Highway 16, for an On- Sale Wine License (New License – No Video Lottery)

#### ***Consent Calendar Items – 32-78***

The following items were removed from the Consent Calendar:

- 32. Approve a request for a Variance to the City's sewer hook-up requirement for Kerry and Lew Papendick, 5508 Sunburst Drive; contingent upon signing a Waiver of Right to Protest any future assessed project.
- 47. No. PW022404-16 – Request staff to install four stop signs on Mt. View Road at Arrow Street.
- 50. Request that the Mayor appoint a task force to work with the Game, Fish & Parks to come up with the most economical way to harvest and dispose of the deer in order to properly manage the deer herd in Rapid City.
- 61. No. LF022504-08 – Authorize Mayor and Finance Officer to sign Audit Engagement Letter to contract with Ketel Thorstenson, LLP to perform the 2003 financial audit of the City at a cost of \$35,000.
- 65. No. LF022504-13 – Authorize Mayor and Finance Officer to sign Amendment No. 1 to Agreement for Animal Shelter Services between City of Rapid City and the Humane Society of the Black Hills.
- 66. No. LF022504-14 – Authorize Mayor and Finance Officer to sign Amendment No. 1 to Agreement for Animal Control Services between City of Rapid City and the Humane Society of the Black Hills.

Motion was made by Waugh, seconded by Rodriguez and carried to approve the following items as they appear on the Consent Calendar:

#### ***Public Works Committee Consent Items***

- 33. No. PW022404-02 – Accept the recommendation of the Parks & Recreation Subcommittee to not proceed with the donation proposal of the 52.8 acres in the Enchanted Hills commons area, pending resolution of the site access issue.

34. No. PW022404-03 – Accept the recommendation of the Parks & Recreation Subcommittee and request that staff enter into negotiations with the Rapid City School system for the development and funding of a Joint Use Facility Master Plan for the Rapid Valley School site including both the design of recreational facilities and land acquisition.
35. No. PW022404-04 – Approve Change Order No. 05 for CoCompost Facility Project No. SWO 02-1168 to R C S Construction for an increase of \$25,038.
36. No. PW022404-05 – Approve Change Order No. 04 for Water Reclamation Facility Expansion Project No. WRF02-1173 to Glenn C. Barber & Associates, Inc. for an increase of \$55.38.
37. No. PW022404-06 – Approve Change Order No. B04 for Roosevelt Park Pool Complex Project No. PR02-1208 to R C S Construction for an increase of \$16,716.
38. No. PW022404-07 – Authorize staff to advertise for bids for Water and Sewer Reconstruction, SE Connector Road – Highway 79 Project No. SSW02-1137.
39. No. PW022404-08 – Authorize staff to advertise for bids for Sheridan Lake Road Joint Seal and Panel Replacement Project No. STCM03-1294.
40. No. PW022404-09 – Authorize staff to advertise for bids for Star of the West Parking Lot Project No. PR04-1336.
41. No. PW022404-10 – Authorize staff to advertise for bids for Minneluzahan Senior Center Parking Lot Overlay Project No. PL04-1343.
42. No. PW022404-11 – Authorize Mayor and Finance Officer to sign Amendment No. 02 to a Professional Service Agreement with FMG, Inc. to design SE Connector (S) – Hwy 44 to Hwy 79 Project No. SSW02-1137 for an amount not to exceed \$3,210.
43. No. PW022404-12 – Authorize Mayor and Finance Officer to sign a Professional Service Agreement with Dream Design International to design East Anamosa Water Main Extension Project No. W04-1370 for an amount not to exceed \$6,500.
44. No. PW022404-13 – Authorize Mayor and Finance Officer to sign a Cost Share Agreement with the Rapid Valley Sanitary District for replacement of the School Drive Meter Pit for an amount not to exceed \$45,000.
45. No. PW022404-14 – Authorize staff to proceed with Request for Proposals for Mall Ridge Lift Station Improvements Project No. SS03-1255.
46. No. PW022404-15 – Approve a Resolution Establishing Supplemental Tap Fees for Dyess Water Main Extension Project No. W99-845.

#### RESOLUTION

WHEREAS, Rapid City Municipal Code Section 13.04.095 and SDCL § 9-47-16 allows the Common Council to impose supplemental tap fees for connection to the water utility in certain areas; and

WHEREAS, water mains have been extended along portions of Dyess, Seger, and future Mall Drive under City Project No. W99-845, Dyess Avenue Water Main Extension, as shown on Exhibit A, attached hereto and incorporated herein; and

WHEREAS, the total project cost to complete this water main extension project is \$646, 356.34, which includes \$591,890.34 in construction costs and \$54,466.00 in design costs; and

WHEREAS, the total project costs of the construction of Dyess Avenue Water Main Extension, City Project No. W99-845 should be apportioned according to the benefit each property receives; and

WHEREAS, parcels #37ab and #39ab as shown on Exhibit A, are the sole benefiting properties from the water main constructed in the private road between parcels 37ab and 39ab. The cost for the construction of the portion of the public water main

extension along the existing private road between parcels #37ab and #39ab (east of Dyess Avenue, future east projection of Dane Lane) is \$13,123.07; and

WHEREAS, the balance of project costs totaling \$633,233.27 will be proportioned to the properties identified in Exhibit A according to the benefits to accrue to such property before such property shall be served with such facilities; and

WHEREAS, Exhibit B, attached hereto and incorporated herein, represents the amounts each benefited property must pay to connect to the City water utility. These fees are based on the benefits that accrue to such property, and should be established on a per-acre, two-tier system. "Adjacent benefiting areas" include those properties that directly abut the new water mains and can take service to that subject property without further main extension, with acreage of those parcels limited to area within approximately 660 feet of roadway centerline. "Oversize benefiting areas" include those properties that will benefit from increased water main diameter to service the regional area, but do not directly abut newly constructed water mains. Thus, these properties will need to extend additional water mains at their cost prior to connecting to this infrastructure; and

WHEREAS, the Common Council finds, after conducting a comprehensive investigation of the areas benefited by the construction of the Dyess Avenue Water Main, City Project No. W99-845 that such supplemental tap fees are appropriate and in the best interests of the City, community, and the water utility.

NOW, THEREFORE, be it resolved that supplemental tap fees are hereby imposed on the property that benefits from the construction the Dyess Avenue Water Main, City Project No. W99-845; and

BE IT FURTHER RESOLVED that the property shown in Exhibit A shall be required to pay its proportions share of the cost of construction the Dyess Avenue Water Main, City Project No. W99-845 prior to being served with City water; and

BE IT FURTHER RESOLVED that the property shown on Exhibit A as Adjacent Benefiting property shall pay \$2941.03 per acre prior to connection to the City's water main; and

BE IT FURTHER RESOLVED that the property shown on Exhibit A as Oversize Benefiting property shall pay \$911.84 per acre prior to connection to the City's water main; and

BE IT FURTHER RESOLVED that Lot 37ab and 39ab as shown on Exhibit A shall each pay the per-acre supplemental tap fee as shown on Exhibit A and shall, in addition, pay \$6561.54 each, which represents one half of the cost of extending the water main into the private road; and

BE IT FURTHER RESOLVED that such supplemental tap fees shall remain in effect until such time as the balance of project costs totaling \$646,356.34 is collected, at which time this Resolution and the supplemental tap fee shall automatically expire.

Dated this 2<sup>nd</sup> day of March, 2004.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

48. No. 04VE001 – Approve with stipulations a Vacation of Major Drainage Easement for FMG, Inc. for Kohls Department Stores, Inc. located west of Haines Avenue and north of Interstate 90.

RESOLUTION OF VACATION OF  
MAJOR DRAINAGE EASEMENT

WHEREAS it appears that a major drainage easement on Lot 2R, Five Star Subdivision, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Haines Avenue and north of Interstate 90, is not needed for public purposes; and

WHEREAS the owner(s) of property adjacent to the above-described property desires said major drainage easement to be vacated and released;

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the major drainage easement heretofore described, and as shown on Exhibit "A", attached hereto, be and the same is hereby vacated.

Dated this 2<sup>ND</sup> day of March, 2004.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

49. No. 04RD001 – Approve a Resolution to change that portion of the road named Rapid Street to Apolda Street between the intersection of Rapid Street and 6<sup>th</sup> Street and Rapid Street and Mt. Rushmore Road.

RESOLUTION CHANGING THE NAME OF  
RAPID STREET TO APOLDA STREET

BE IT RESOLVED by the City of Rapid City that the portion of road named Rapid Street between the intersection Rapid Street and 6<sup>th</sup> Street and the intersection Rapid Street and Mt. Rushmore Road be, and is hereby, named Apolda Street.

DATED this 2<sup>nd</sup> day of March, 2004.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

***Legal & Finance Committee Consent Items***

51. Request the Mayor to appoint a task force consisting of Ron Kroeger, Sam Kooiker, Ray Hadley, Jeff Partridge, staff members, and some of the landowners in the area to work on a plan to complete the East Anamosa Street extension from Walmart to Menard's.
52. No. CC030104-04 - Acknowledge the CIP Committee report.
53. No. LF022504-01 – Authorize Mayor and Finance Officer to sign Memorandum of Understanding (Final Extension of Modified Work Schedule).

54. No. LF022504-02 – Approve Travel Request for Ray Cornford to attend Assessor Training Conference for CALEA in Pasadena, California, from March 17-20, 2004, in an approximate amount of \$1,826.
55. No. LF022504-03 – Authorize Mayor and Finance Officer to sign Agreement with Sweet Computer Services, Inc. for Technical Support.
56. No. LF022504-04 – Approve Travel Request for Bill Paez to attend Firehouse Software Education & Training Seminar in San Diego, CA, from April 14-18, 2004, in an approximate amount of \$1,550.
57. No. LF022504-05 – Approve Travel Request for Dave Lepine to attend Basic Airport Safety & Operations Specialist School in New Orleans, LA, from March 14-17, 2004 in the approximate amount of \$1,400.
58. No. LF022504-06 – Approve the Subsidy Committee's preliminary recommendations for Community Development Block Grant (CDBG) funding for FY 2004 and to request staff to move forward with the public hearing.
59. No. LF022504-18 – Request staff to continue researching the campus-type signage issue and bring back a recommendation to the June 2, 2004, Legal and Finance Committee meeting.
60. No. LF022504-07 – Approve Resolution Declaring Property Surplus.

#### RESOLUTION DECLARING PROPERTY SURPLUS

WHEREAS the below-described property is no longer necessary, useful or suitable for municipal purposes

NOW, THEREFORE, BE IT RESOLVED that the following property be declared surplus and disposed of according to state statutes, including disposal, sale, transfer to other government agency, or trade-in on new equipment:

##### Solid Waste Operations

##### **Dano Drum A**

Motor Number 1, SN 90-19-99877

Motor Number 2, SN 90-29-100158

Motor Number 3, SN 90-28-100143

BE IT FURTHER RESOLVED that the Mayor and Finance Officer may do all acts necessary to dispose of this property according to state law.

Dated this 2<sup>nd</sup> day of March, 2004.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

62. No. LF022504-09 – Approve Travel Request for Duane Baker and Ron Nordell to attend National Weed and Seed Law Enforcement Conference in Buffalo, New York, from May 17-20, 2004, in an approximate amount of \$1,836.
63. No. CC030104-08 – Approve Resolution Authorizing Release of Moratorium Funds, Relating to Ordinance 3972, 2004 Appropriation Ordinance

#### RESOLUTION AUTHORIZING RELEASE OF MORATORIUM RELATING TO ORDINANCE 3972, 2004 APPROPRIATION ORDINANCE

WHEREAS, on September 15, 2003 the Rapid City Common Council adopted Ordinance 3972, 2004 Appropriation Ordinance; and

WHEREAS, the understanding of the Common Council when adopting this Ordinance was that \$1,728,707 of the appropriation for Government Funds and \$1,114,329 of the appropriation for Enterprise Funds would not be obligated until the Common Council could review revenues, priorities and the City's financial condition after December 31, 2003; and

WHEREAS, at a Special Meeting of the Common Council on February 23, 2004 the City's financial condition was reviewed and the consensus of those present was to recommend that the moratorium cease

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Rapid City removes the moratorium on spending that was established on September 15, 2003.

BE IT FURTHER RESOLVED that the Common Council and all departments of the City reaffirm the culture that business will be conducted in the most open, economical and practical way possible to serve the citizens of Rapid City.

Dated this 2<sup>nd</sup> day of March, 2004.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 64. No. LF022504-11 – Approve Non-Union Personnel Policy Revisions.
- 67. No. LF022504-15 – Approve request for 2004 Concession License Agreement for LuAnn Borden, dba Crazy Cow Treats, contingent upon receipt of proof of insurance.
- 68. No. LF022504-16 – Approve Resolution Adopting a Policy to Create an Ad Hoc Public Arts Committee as Necessary.

**RESOLUTION ADOPTING A POLICY TO CREATE AN AD HOC PUBLIC ARTS  
COMMITTEE AS NECESSARY**

WHEREAS, the City of Rapid City periodically has issues and projects dealing with public art come before them; and,

WHEREAS, these issues and projects do not arise frequently enough to justify the formation of a permanent committee; and,

WHEREAS, the Common Council of the City of Rapid City would find it helpful to have the option to occasionally form a temporary public art committee to provide input and make recommendations on specific issues and projects related to public art; and,

WHEREAS, the City of Rapid City deems it to be in the City's best interest to establish guidelines for forming such an ad hoc public art committee.

NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that it is the policy of the Common Council that at any time an issue or project relating to public art is put before the Common Council and they wish to have further input on the issue or project

from members of the community that they may, if they so chose, ask the Mayor to form a temporary public art committee to deal with a specific issue or project.

BE IT FURTHER RESOLVED, that the formation of the temporary committee will be conducted as follows:

- (a) When directing the Mayor to form the committee the Council will establish the number of members they wish to have look at the issue or project as well as provide a clear mandate to the committee as to what areas or questions they wish to have the committee review.
- (b) The Council will ask the Mayor to present a list of names of people interested in serving on the committee for their approval.
- (c) The committee should be composed of residents of Rapid City but may include members from areas outside the city if the Mayor and Council deem it appropriate.
- (d) Once formed the committee can adopted any rules or guidelines deemed appropriate to carry out their mandate from the council as well as appoint a chair person if they so chose.

BE IT FURTHER RESOLVED, that the temporary committee once formed will have the authority to review or investigate any project or issue submitted to them per the Council's mandate and upon completing their review or investigation shall make appropriate recommendations or findings to the Council.

BE IT FURTHER RESOLVED, that the temporary committee shall have no authority other than the authority to review or investigate the matter submitted to them by the Council and to make recommendations there on. The Common Council does not have to follow the committee's recommendations, authority to approve or deny projects remains solely at the discretion of the Common Council.

BE IT FURTHER RESOLVED, that once the temporary committee has completed their mandate, and presented the Council with their recommendation or findings, that they be disbanded.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

CITY OF RAPID CITY  
s/ Jim Shaw, Mayor

- 69. Request staff to obtain an appraisal on the City's property north of the Visitors Information Center, to appoint a board of freeholders, and to move forward with the platting process.
- 70. No. LF022504-19 – Request staff to send a letter to legal counsel for Federal Beef asking for a tighter timeline for cleanup of the property and requesting that any health or safety issues be taken care of immediately or the City Council will be looking at other alternatives.
- 71. No. LF022504-17 – Authorize Mayor and Finance Officer to sign Addendum to Contract with Golf Professional Tracy Hamblet.
- 72. No. CC030104-05 - Approve the following licenses: Electrical Apprentice: Keith Coy, Brian Goethals, Scott R. Robertson, Zebulon Ross Trask, Matthew Yackley; Electrical Journeyman: Lenart Brown Eyes, Mark Johring; Electrical Contractor: Action Systems, Inc., dba Action Electric, Kevin R. Buehner; Mechanical Apprentice: Jeff Adam, Kevin Bad Wound, Justin Burke, Jerald Cihak, Garry Colasardo, Todd Dietrich, Robert W. Eggers, Darrin Esser, Todd Johnson, Catherine Little, Mark Little, Matthew Little, Dan Michael, Randy T. Palmer, Jeffrey Phelps, Dale Sartorius, Wayne Sartorius, Brent

Strand, Nick Williams, Rodney Witte; Mechanical Installer: Michael P. Anderson, Steven S. Armour, Mark Bradley, Joel R. Brown, Dennis C. Carlton, Robert Caswell, Craig Chmelka, Jerry P. Christensen, David T. Del Soldato, Chris Derrick, David Eccleston, Josh Eccleston, Kent Eccleston, James H. Everton, Shiloh Farmer, Troy Finck, Orryn A. Fischer, Alphonse Fleck, Bryan L. Hermanson, Carl J. Hyatt, Stephen P. Hyk, Jr., Todd Johnson, Shawn Kast, Kenneth Kenitzer, Ernest Kouba, Scott Latuseck, Clyde Miller, John B. Miller, Kevin Morris, Troy Nayman, Richard J. Petersen, Johnny Reede, Ralph Schad, Michele Seaman, Tim Scholl, Wade D. Smith, John B. Thompson, III, Donald P. Tischler, Jr., Joseph A. Trusty, Nick Walenta, Allan Weinand, David J. Wipf, Jason L. Wold; Mechanical Contractor: A to Z Maintenance & Repair, Chino Caekaert; Accu Temp Heating & A/C, Scott E. Larson; All Seasons Heating and Cooling, Doug Frisk; Anderson Heating and A/C, S. R. Anderson; Black Hawk Plumbing, Steve E. Prestjohn; Black Hills Heating & Cooling, Stuart A. Nelson; Black Hills Power, Daniel V. Dejong; Black Hills Power, Keith Gade; Black Hills Power, Richard D. Trapp; Central States Mechanical, Bill M. Brown; D & R Service, Lonny Ryman; D & R Service, Ron Ryman; Dependable Transport, Rick W. Salyers; Equipment Service Professionals, Jim Swaby; Gutzmer Mechanical, Wayne D. Gutzmer; Jim's Plumbing & Heating, Jim Schnittgrund; K & D Appliance, Kevin Broom; K & D Appliance Service, David L. Strand; K & K Sheet Metal, Milford E. Kast; L & M Appliance Specialists, Inc., Lee Seaman; McCarthy Services, Dave J. McCarthy; Mike's Mobile Home Service, Roland W. Fielder; Montana-Dakota Utilities, George Thompson; Olson Plumbing & Heating, Larry L. Olson; Opstedahl Plumbing, Gene Opstedahl; Rudd Plumbing, Alvin S. Rudd, Jr.; Scholl Plumbing & Heating, Inc., Wesley Scholl; Star Sheet Metal, Stanley Little; Street Heating & Sheet Metal, Steven M. Street; Western SD Community Action, Harold Lund; Western SD Community Action, Richard E. Anderson; Viking Mechanical, Randy Smart; Wyo-Dak Plumbing & Heating, Wayne Piebenga; Plumbing Contractor: Dennis Brown, DB Plumbing; Douglas W. Ficken, D & T Professional Plumbing Co., Inc.; Carol M. Hallock, Town-N-Country Plumbing; Benjamin (Bruce) Hartley; Scott C. Hartman, Wolff's Plumbing & Heating; Robert F. Hillman, Hillman Plumbing & Heating; Keith E. Jackson, Action Mechanical; Robert Kenzy, Kenzy Plumbing; Kelly Klein, Hills Plumbing & Heating; Gene Opstedahl, Opstedahl Plumbing; Wayne Piegenga, Wyo-Dak Plumbing & Heating; James Rensch, Rushmore Plumbing Services, Inc.; Alvin S. Rudd, Jr., Rudd Plumbing; Terry A. Sharkey, Sharkey Plumbing & Heating, Inc.; Ted Simonson, Western Mechanical; Scott R. Smith, Aqua Plumbing and Heating; Allan L. Spodnik, Custom Plumbing; Doug A. Van Dierendonck, Doug's Plumbing; Elmer Wiege, Wiege Plumbing Repair; Plumber: James Allen, Bradley E. Anderson, Gerald C. Barry, Joel R. Brown, Jerome W. Bryant, Dennis C. Carlton, Andrew B. Chado, Jerald L. Cihak, Rick Dehaven, Rob Evans, Samuel Lloyd Feight, Roger L. Goehner, Hilmen O. Hanson, Daniel I. Hartman, Gregory A. Hartman, Leo S. Kline, Rodney V. Lagasse, Jef Mattern, Dan A. Michael, Bruce A. Nash, Michael J. Ogren, Steve E. Prestjohn, Kenny Ryman, Travis L. Sales, Tim Scholl, Jim Shuman, Don Sheffield, John F. Shorter, John Thomas, Brian J. Ulmer, Mark Weglin; Plumbing Apprentice: Raja Abbott, Robert Bandy, Eric Bigelow, Shaun R. Burke, William P. Ficken, Joseph F. Kerns, Lon A. Krueger, Bill Mathieu, David C. McClaskey, Aaron L. Olson, Shawn Popkes, Marvin Tisdall, Loren A. Voss; Residential Contractor: Beaty Enterprises, Mike Beaty; FNV Enterprises, Christopher L. Swallow; Dean Kelly Construction, Inc., Dean H. Kelly; Scott McCaskell Construction, Scott McCaskell; Mills Construction, Jerry Mills; Steve's Remodeling & Const., Stephen R. Pratt; Tasak Construction, Todd Stainbrook; Second Hand: Sound Bytes Music, Thomas Anderson; Security Business: Dakota Knights Security, Mark D. Steffen; Highlander Security, Inc., James L. Hansen; Ole Olson Security, Vance A. Olson; Sewer & Water Journeyman: (New License) Ronnie Hufstutler, Gene Johnson, Jamie Overby; Sewer & Water Contractor: (Renewal) Diamond M Inc. Excavating Specialists, Gary L. Hamm; Excavating Specialists, Terry L. Larson; Geidel Excavation, Melvin Geidel; Hills Construction Ltd; Jack C. Sagdalen; Hills Materials Co., William J. Keller; Iron Horse Excavating Inc.;



John L. Long; J V Bailey Co Inc., Jerald Mitzel; Kingman Construction Inc., Duane Oehlerking; Mainline Contracting Inc., James B. Morris; Miller Construction, Cameron G. Miller; Nielsen Construction, Royal N. Neilsen; Olson Excavating Inc., Duane K. Olson; Piedmont Construction Co., Robert W. Powles; Quality Excavating Inc., Bryan J. Rick; Quinn Construction Inc., Robert J. Quinn; R C S Construction Inc., Perry Van De Steeg; Rapid Construction; Steve Van Houten; Scull Construction Service, Douglas Wilson; Warax Excavating, Robert A. Warax; Zandstra Construction Co., Dwight B. Hanna; Sewer & Water Journeyman: (Renewal) Art Askland, Jerry Bassett, Lyle Bromwich, Donald Brumbaugh, James D. Bice, William Bradford, Warren (Mike) Case, Rob Davis, John Giese, Richard Harmon, Kevin Hein, Brandon Hemenway, Robert B. Hengen, Dave Hepburn, William S. Huber, Warren Jaasund, Jerald B. Jones, Jeremy Larson, James Lester, Thomas Lester, Dale W. Mogensen, Peter P. Nikkila, Howard L. Nold, Bret K. Olson, John R. Page, Timothy R. Powles, Dale Raish, William G. Reasor, Rodney D. Rilling, Scott Ryan, Floyd P. Schafer, Thomas Schumacher, Gale Schipke, Stephen M. Swanson, Glen E. Taylor, John Tippman, Norman Wiederich, Bryan Wildberger; Trenching Contractor: (Renewal) Cable Communcation Services, Don Williams; Energy Electric, Frank Watson; Iowa Pipeline Associates, William Mudge; Iron Horse Excavating, Inc., Jacob A. Ankele III; Dean Kelly Construction, Inc., Kelly Ryan; Push, Inc., Paul Ekstrom; Scull Construction Service, Douglas Wilson; Sprinkler Systems Service, Gregory E. Pogany; Tordsen Backhoe Service, Jared Tordsen; Trenching Journeyman: (Renewal) Scott Bach, Tom Beetem, Jason Bintliff, Tony Bolton, Randy Coffield, Joe B. Ford, Paul Frey, Jim Giggee, Gerald Hanks, Brian Hathorn, David R. Jedlicka, Todd E. Jones, Paul Kreun, Brett Larson, Darin McIntosh, Delos H. Oldewurtel, Roger Packard, Kevin Paugh, Reynold Rausch, Steven Quenzer, James N. Renville, Bob Richardson, John M. Robison, Paul Tedford, Kelly Thurman, Scott Turner, Johnny L. Ward, Gary Wickman, David Woldt; Trenching Journeyman: (New License) Derek Weigel; Water Softening Contractor: Champion Water Systems, Inc., Paul Champion; Culligan Water Conditioning, Gary Robinson;

### ***Planning Department Consent Items***

73. No. 03PL091 - A request by Renner and Sperlich for Doeck, LLC for a **Layout, Preliminary and Final Plat** on Tracts A and B, Auburn Hills Subdivision, located in the NW1/4 of SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NW1/4 of the SW1/4 located in the NW1/4 of SW1/4, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at the intersection of Chalkstone Drive and Auburn Drive. (DENY WITHOUT PREJUDICE)
74. No. 03PL112 - A request by Franklin Simpson for a **Preliminary and Final Plat** on Tract M1 and M2, Fountain Springs Business Park, located in the NE1/4 SE1/4 of Section 27, and the NW1/4 SW1/4 of Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as a portion of the NE1/4 SE1/4 of Section 27 and a portion of the NW1/4 SW1/4 of Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Harmony Heights Lane. (DENY WITHOUT PREJUDICE)
75. No. 03PL117 - A request by Dream Design International, Inc. for a **Preliminary and Final Plat** on Lots 1 and 2, Block 12; Lots 1 thru 7, Block 15; Lots 1 thru 10, Block 17; Lots 1 thru 17, Block 18; Outlots G-1, G-2, G-3 and X and dedicated streets, Red Rock Estates, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as the unplatted balance of the NW1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along the extension of Prestwick Road and Bethpage Drive. (APPROVE THE PRELIMINARY PLAT WITH THE FOLLOWING STIPULATIONS, AND CONTINUE THE FINAL PLAT UNTIL March 15, 2004: 1) Prior to Planning Commission approval of the Preliminary Plat, the applicant shall identify if the property shall be Final Platted in phases or the Final Plat

shall include all of the proposed lots; 2) Prior to City Council approval of the Preliminary Plat, the construction plans shall be revised to show that portion of Bethpage Drive extending west from the Bethpage Drive\Prestwick Road intersection with a minimum 76 foot wide right-of-way and a minimum 40 foot wide paved surface; 3) Prior to City Council approval of the Preliminary Plat, construction plans for the extension of Bethpage Drive to the north lot line shall be submitted for review and approval. In particular, Bethpage Drive shall be located in a minimum 52 foot wide right-of-way with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, sewer and water or a Variance to the Subdivision Regulations shall be obtained. In addition, a temporary turnaround shall be provided at the northern terminus of Bethpage Drive; 4) Prior to City Council approval of the Preliminary Plat, written documentation of flows being provided from the water system shall be submitted for review and approval; 5) Prior to City Council approval of the Preliminary Plat, a grading plan shall be submitted for review and approval for the proposed drainage pipe design to be located along the common lot line of Lots 9 and 10 of Block 18; 6) Prior to City Council approval of the Preliminary Plat, a Variance to the Subdivision Regulations shall be obtained to allow a lot twice as long as it is wide or the plat document shall be revised to comply with the length to width requirement; 7) Prior to City Council approval of the Preliminary Plat, a revised sewer plan shall be submitted for review and approval. In particular, the sewer plans shall show the elimination of the drop manholes or access shall be provided to the manholes. In addition, the plat document shall be revised to show additional utility easements as needed; 8) Prior to City Council approval of the Preliminary Plat, a private utility plan shall be submitted for review and approval; 9) Prior to City Council approval of the Preliminary Plat, revisions to the drainage plan shall be submitted for review and approval. In particular, the applicant shall demonstrate that run-of discharged to the adjacent properties is properly addressed; 10) Prior to City Council approval of the Preliminary Plat, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Engineering Division; 11) A Special Exception is hereby granted to allow 46 dwelling units in lieu of 40 dwelling units with one point of access as per the Street Design Criteria Manual; 12) A Special Exception is hereby granted to allow an 1,800 foot long cul-de-sac and a 2,300 foot long cul-de-sac, respectively, without intermediate turnarounds every 600 feet in lieu of a maximum 600 foot long cul-de-sac with intermediate turnarounds every 600 feet s per the Street Design Criteria Manual; 13) Prior to City Council approval of the Final Plat, the plat document shall be revised to show a Major Drainage Easement on Outlot G2 as needed; 14) Prior to City Council approval of the Final Plat, the plat document shall be revised re-labeling the outlots as a Lot and Block. In addition, Lots 1 and 2 of Block 12 shall be re-labeled as these lot numbers already exist; 15) Prior to City Council approval of the Final Plat, the plat document shall be revised to include a note identifying the use of Outlot X or Outlot X shall be shown as an easement precluding any development until the lot is plated into the adjacent property located directly north of the lot; 16) Prior to City Council approval of the Final Plat, the plat document shall be revised to show the shared driveway located on Lots 4 and 5 of Block 18 as a 40 foot X 40 foot "shared approach and intermediate turnaround"; 17) Prior to City Council approval of the Preliminary Plat, a subdivision estimate form shall be submitted for review and approval; and, 18) Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

76. No. 04PL002 - A request by Timothy Kopren for a **Preliminary Plat** on Lot A and Lot B of Lot 2 of Block 1, Clarkson Subdivision, located in the NE1/4 of the NE1/4 of Section 31, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, legally described as Lot 2 of Block 1, Clarkson Subdivision, located in the NE1/4 of the NE1/4 Section 31, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 7989

Clarkson Road. (APPROVE THE PRELIMINARY PLAT WITH THE FOLLOWING CONDITIONS: 1) Prior to City Council approval of the Preliminary Plat, the applicant shall identify the size and material of the existing water main located in Clarkson Road. In addition, the applicant shall submit written documentation from the Colonial Pine Hills Sanitary District granting permission for another water service line to be extended to proposed Lot A of Lot 2 to serve the future residence to be constructed on the lot; 2) Prior to City Council approval of the Preliminary Plat, a drainage plan shall be submitted for review and approval. In addition, the plat document shall be revised to show drainage easements as needed; 3) Prior to City Council approval of the Preliminary Plat, a cost estimate for any required subdivision improvements shall be submitted for review and approval; 4) Upon submittal of the Final Plat application, the plat document shall be revised to show the dedication of five additional feet of right-of-way along Clarkson Road; 5) Upon submittal of the Final Plat application, a Conditional Use Permit to allow an accessory structure prior to a principal structure on proposed Lot A of Lot 2 shall be approved by the Pennington County Planning Commission or the existing garage shall be removed from the property; 6) Upon submittal of the Final Plat application, the plat title shall be revised to read "formerly Lot 2 of Block 1, Clarkson Subdivision"; and, 7) Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

77. No. 04PL004 - A request by Sperlich Consulting, Inc. for Dennis Zandstra for a **Layout and Preliminary Plat** on Lots 3 thru 5 of Block 9 and Lots 11 thru 16 of Block 10 of Elks Country Estates, located in the NE1/4 of the NW1/4, Section 16, T1N, R8E, Rapid City, Pennington County, South Dakota, legally described as a portion of Lots 6 and 8 of Block 10 of Elks Country Estates and a portion of Tract 1 of the E1/2 of Section 16, located in the NE1/4 of the NW1/4, Section 16, T1N, R8E, Rapid City, Pennington County, South Dakota, located south of Willowbend Road along Padre Drive and Sawgrass Court. (APPROVE WITH THE FOLLOWING STIPULATIONS: 1) Prior to City Council approval of the Preliminary Plat, the plat document shall be revised to show a non-access easement along Padre Drive and all corner lots as per the Street Design Criteria Manual; 2) Prior to City Council approval of the Preliminary Plat, the plat title shall be changed to read "Section 16" in lieu of "Section 21" and to read "E1/2 in lieu of "ED"; 3) Prior to City Council approval of the Preliminary Plat, the plat document shall be revised to show a minimum 10 foot wide Major Drainage Easement along the north lot line of proposed Lots 11 and 12; 4) Prior to City Council approval of the Preliminary Plat, a revised plat document eliminating Lot 5 of Block 9 shall be submitted for review and approval; 5) Prior to City Council approval of the Preliminary Plat, a revised sewer plan shall be submitted for review and approval; 6) Prior to City Council approval of the Preliminary Plat, a private utility plan shall be submitted for review and approval; 7) Prior to City Council approval of the Preliminary Plat, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Engineering Division; 8) Prior to City Council approval of the Preliminary Plat, a subdivision estimate form shall be submitted for review and approval; and, 9) Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid.)

#### **Raffle**

78. No. CC030104-12 – Notification of Raffle submitted by Black Hills Pony League, said raffle to be held in Late May, 2004.

#### **END OF CONSENT CALENDAR**

The next item discussed by the council was a request by Kerry and Lew Papendick for a Variance to the City's **sewer hook-up requirement** at 5508 Sunburst Drive; contingent upon

signing a Waiver of Right to Protest any future assessed project. City Attorney Green explained that both city ordinance and state law require that if a home is within 200' of an existing sewer system, they are required to hook up to that system. There is no variance available to that requirement. City Engineer Dan Coon explained that Mr. Papendick requested that this item be continued to the Public Works Committee to allow further discussion on this issue. Motion was made by Hadley, seconded by Kooiker and carried to continue this item to the Public Works Committee meeting on March 9, 2004.

The next item before the Council was No. PW022404-16, a request that staff install **four stop signs on Mt. View Road** at Arrow Street. Jean Bouska encouraged the council to approve the installation of these stop signs in an effort to control speeding through this neighborhood. Speeding has been an on-going problem in this area and law enforcement recently clocked someone going 61 in this 25 MPH zone.

Alderman Rick Kriebel entered the meeting at this time.

Penny Stahl spoke against putting in a four-way stop at the intersection of Arrow and Mt. View. If traffic is required to stop before going up Arrow Street, it will be very difficult to get up Arrow street during icy conditions. Stahl added that the State Department of Transportation does not recommend the use of stop signs to control speeding. Motion was made by Rodriguez and seconded by Hadley to direct that a 3-way stop be put at this location with traffic going from north to south not having to stop. Kooiker expressed concern that installing a 3-way stop at this intersection might make the problems worse. If the 3-way stop is approved, Kooiker encouraged the city to make the traveling public aware of this change and that one lane of traffic will not be stopping. Substitute motion was made by Kooiker and seconded by Partridge to refer this issue to the Public Works Committee and request that the Traffic Engineer look at the concept of a 3-way stop at the intersection of Mt. View and Arrow Streets. Upon vote being taken, the motion carried with French voting no.

Motion was made by Kooiker and seconded by Hadley to request that the Mayor appoint a task force to work with the Game, Fish & Parks to come up with the most economical way to harvest and dispose of deer in order to properly **manage the deer herd** in Rapid City. Mike Scott informed the Council that the City of Coraville, Iowa implemented a deer management program that included archers, which has been very successful. The individuals in Iowa indicated they would be willing to provide any information they have to Rapid City on this issue. Scott also volunteered to serve on the task force charged with deer management in Rapid City. Upon vote being taken, the motion carried unanimously.

Motion was made by Partridge and seconded by Murphy to authorize Mayor and Finance Officer to sign **Audit Engagement Letter** to contract with Ketel Thorstenson, LLP to perform the 2003 financial audit of the City at a cost of \$35,000 (No. LF022504-08). Kooiker stated the would feel more comfortable waiting to approve this item until the city received confirmation in writing from the Department of Legislative Audit that there is no conflict with Ketel Thorstenson doing the city's audit, when a subsidiary company of Ketel Thorstenson was awarded the contract to renovate the audio/visual systems in the Council chambers. Substitute motion as made by Kooiker and seconded by Hadley to continue this item until March 15, 2004. Asst. Finance Officer Schmidt reported that she has received a verbal opinion from Jerry Wulf, Director of External Audits at Legislative Audit, that there is no conflict between the contract for the upgrades in the Council Chambers and the 2003 Audit. Schmidt added that if the contract with K-T Connections is pulled for review, it would be sent to an external auditor at the cost of Ketel Thorstenson. There was lengthy discussion about how the audit will proceed and the fact that the auditor will pull a random selection of contracts to be reviewed. If the Council wants a particular contract audited, that can be done at an additional cost since it would be outside the scope of the normal audit. Murphy stated that there is no problem with Ketel Thorstenson performing the city's audit. They are required to operate at a specific standard which is the same for the entire country. He added that there

is a set procedure for how audits are conducted and they will test the city's internal controls. Partridge concurred noting the questions relating to the independence of these two contracts have been asked and answered by the city's staff. He added that he feels this is a direct attack on the credibility of the city's finance director to ask for written confirmation on this issue. The Finance Director has submitted a memo and the information on this issue has been provided. Substitute motion was made by Partridge and seconded by Waugh to approve the audit at the cost of \$35,000. Hanks asked if the Finance Office is expecting written confirmation on this question. Schmidt stated that she was not yet able to contract Mr. Wulf to ask for written confirmation. She added that once the Council has approved the selection of this firm to do our audit for 2003, the Engagement Letter is sent to Pierre for approval of Department of Legislative Audit. DLA must also approve the final audit before final payment is made to Ketel Thorstenson. Hanks asked if the motion maker would accept a friendly amendment to approve the Engagement Letter, upon receipt of a written confirmation from Legislative Audits that there is no conflict. Partridge stated that he would not accept this amendment. Kooiker stated that he doesn't feel his request for a written confirmation is an attack on someone's credibility. He stated that he feels this is a very important issue and he is merely asking for an official opinion to make sure that all of our ducks are in a row. If we have written confirmation, we can go to our constituents and say there is no issue with this and we have it in writing. Kooiker asked for a ruling from the Mayor on whether the motion is in order. City Attorney Green stated that because the second substitute motion is exactly the same as the original motion, it would be my opinion that it is out of order. However, it is the Chairman's position to determine whether or not it is in fact out of order. Mayor Shaw ruled that it will continue with the second substitute motion. Rodriguez stated that we are making mountains out of mole hills on this issue. The City has not had an adverse comment in the audit since the 70s and she will have no problem explaining this issue to her constituents or any citizens. Partridge stated that he appreciates Alderman Hanks' desire to formulate a compromise, but the reason that I did not accept the friendly amendment was that this item does go to the DLA for approval before we can even engage in the process. Also, approving the Engagement Letter tonight will streamline government as opposed to trying to be concerned about documenting what was said and having government officials further document, in addition to what we already have, to appease the lack of trust. There was continued discussion on the procedure for the audit and the fact that the Council could request that additional contracts be audited into May of 2004. Hanks again asked that a friendly amendment be added to the motion, as previously stated. Partridge agreed. Shaw restated the motion as follows: Authorize the Mayor and Finance Officer to sign the Audit Engagement Letter to contract with Ketel Thorstenson, LLP to perform the 2003 finance audit of the City, at a cost of \$35,000, upon receipt of written confirmation from the State Department of Legislative Audit. Upon vote being taken, the motion carried unanimously.

Motion was made by Waugh and seconded by Rodriguez to approve No. LF022504-13 – Authorize Mayor and Finance Officer to sign Amendment No. 1 to Agreement for **Animal Shelter Services** between City of Rapid City and the Humane Society of the Black Hills. Mary Scull, President Elect of the Humane Society, encouraged the Council to approve the amendments to the animal control and sheltering contracts. Upon vote being taken, the motion carried unanimously.

Motion was made by Waugh, seconded by French and carried to approve No. LF022504-14 – Authorize Mayor and Finance Officer to sign Amendment No. 1 to Agreement for **Animal Control Services** between City of Rapid City and the Humane Society of the Black Hills.

### **Public Hearings**

The Mayor announced the meeting was open for consideration of No. CC030104-01 – Resolution of Necessity for Centre Street Sanitary Sewer Extension Project SS00-940. Notice of hearing was mailed to affected property owners on February 10, 2004 and published in the Rapid City Journal on February 14 and February 21, 2004. Steve Wynia spoke against the

Resolution before the Council at this time because of the large assessment that will be charged to each of the properties. The assessments range from \$11,258.22 for a .66 acre parcel of land to \$49,767.45 for a 3.5 acre parcel. Wynia added that 6 out of 7 property owners affected are opposed to the project. However, the other individual owns 51% of the property, and therefore, the project can proceed. He added that all the properties within the boundaries of this project have septic systems with the exception of the Rice property which has no sewer service. This project will allow Mr. Rice to develop and market his property. Wynia reiterated that the proposed assessments are astronomical and there is no way these costs can be recouped by the property owners. He suggested that a lift station be installed to handle the sewage generated by the Rice property. Hanks asked if a Waiver of Right to Protest had been signed for any of the properties on the proposed assessment roll. Staff noted that the two properties owned by the Fraternal Order of Eagles were covered by a waiver. Hanks explained that the City will front-end the costs for this project and allow the property owners to repay the assessment over ten years at 9% interest. He added that eventually this sewer line will have to be installed and paid for by the property owners. There is a state statute that mandates hooking up to a central sewer system if you are within 200'. Kooiker stated that he spoke with a representative of the Fraternal Order of Eagles who stated that they are not categorically opposed to project, but they are opposed to any additional tie-outs or extras that have been included in the project. Kooiker asked if there are any oversizing costs built into the project, and is a lift station a viable option. Engineering Division Manager Coon stated that he does not think there are any oversize costs included in this project. Coon added that the City would discourage the use of a lift station because they are dependent on a power source for operation, and lift stations are a maintenance item which would become the responsibility of the property owner. Coon stated that the City would not want to have a lift station installed and have it be part of the City's system. Kelly Flannery also spoke against the project questioning the large assessments. He noted that his assessment of \$44,000 is approximately 20% of the taxable valuation of the property. Steve Harper from Amerigas also opposed the project because of the proposed costs. Don Rice spoke in favor of the project that would provide sewer service to this part of the community. Murphy noted that if there are properties in this area with failing septic systems, now is the time to proceed with this project. Mayor Shaw closed the public hearing. The following Resolution was introduced, read and Hanks moved its adoption:

RESOLUTION OF NECESSITY FOR  
CENTRE STREET SANITARY SEWER EXTENSION  
PROJECT NO. SS00-940

BE IT RESOLVED by the City of Rapid City, South Dakota, as follows:

The City Council hereby declares the necessity of constructing approximately 4,000 l.f. of 8" Sanitary Sewer Main to serve twelve benefiting properties near Centre Street east and west of Cambell Street and along Creek Drive. The above-referenced project shall be hereafter referred to as Centre Street Sanitary Sewer Extension, Project No. SS00-940, which shall be deemed a description of the above referenced improvements.

The general nature of the project is as set forth above. Detailed plans and specifications will be prepared by a consultant engineer and will be placed on file with the City Finance Officer.

The estimated total cost of the project is \$390,828 of which \$331,707 will be assessed and \$59,121 will be funded via Sewer Enterprise Fund. The estimated assessed costs will be \$371,036.31 including consultant services for design, six percent (6%) engineering fees and five percent (5%) fiscal fees. Interim construction fees are to be determined by the Finance Officer and shall be included in the final assessment.

The method of assessment is on an Acreage and Frontage Basis.

The recorded ownership and estimated cost for each property is listed on the attached ownership list.

Dated this 2<sup>nd</sup> day of March, 2004.

ATTEST:  
s/ James F. Preston  
Finance Officer  
(SEAL)

THE CITY COUNCIL  
s/ Jim Shaw, Mayor

The motion for adoption of the foregoing Resolution was seconded by Rodriguez. Roll call vote was taken: AYE: Hanks, Murphy, Rodriguez, Waugh, Hadley, Kriebel and Partridge; NO: French and Kooiker. Motion carried, 7-2.

### ***Planning Department Items***

The Mayor presented No. 03CA041, a request by Franklin Simpson for an **Amendment to the Comprehensive Plan to change the future land use designation on a 1.792 acre parcel of land from Park Forest to Medium Density Residential with a Planned Residential Development** on the following property: A parcel of land described by metes and bounds as beginning at the southwesterly corner of Tract H of the Wesleyan Christian Center, Thence first course: N76°34'25"E a distance of 263.55 feet to the SE corner of said Tract H; Thence second course: N69°06'06"E a distance of 98.75 feet to the westerly right-of-way line of Sunny Springs Road; Thence third course: S17°49'19"E a distance of 195.45 feet to an angle point of Sunny Springs Road right-of-way; Thence fourth course: S27°11'30"W a distance of 14.14 feet to the north right-of-way line of Harmony Heights Lane; Thence fifth course: S72°12'18"W a distance of 256.21 feet to a point of curvature on the north line of Harmony Heights Lane; Thence sixth course: along an arc to the right, which radius is 170.00 feet an arc distance of 110.36 feet to a point of tangency on the north line of Harmony Heights Lane; Thence seventh course: N70°21'42"W a distance of 53.48 feet to the east right-of-way line of Plaza Boulevard; Thence eighth course: along the east right-of-way line of Plaza Boulevard, on an arc to the left, which radius is 333.35 feet an arc distance of 162.41 feet, and the chord bearing of N00°31'03"E a distance of 160.81 feet, to the point of beginning, said parcel of land containing 1.792 acres more or less, all lying in the NE1/4 SE1/4 of Section 27 and in the NW1/4 SW1/4 of Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Harmony Heights Lane. Motion was made by Kooiker, seconded by Rodriguez and carried to deny this item without prejudice.

The Mayor presented No. 04CA001, a request by Bruce Olson for an **Amendment to the Comprehensive Plan by revising the North Rapid Neighborhood Area Future Land Use Plan to change the future land use designation on a 0.13 acre parcel from Low Density Residential to Medium Density Residential** on Lots 4 and 5, Block 1, Haley's Addition, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1123 North 7th Street. Motion was made by Rodriguez and seconded by Murphy to deny the Amendment. Bruce Olson explained that he purchased this property in 2002 with the assumption that it would be upper and lower apartments; he would live in the top apartment and rent out the lower apartment. Olson stated that two properties on the same side of 7<sup>th</sup> Street as the subject property are duplexes and were marketed and sold as such last fall. Olson added that rezoning this property will not result in an additional concentration of population in this area of the community. A map was presented showing the current zonings of properties surrounding the subject property, as well as the existence of several structures that are being used as duplexes at the present time. Olson asked that he be treated the same as other properties in this area. Ethan Schmidt, Attorney representing Mr. Olson, explained that Mr. Olson wants to fully comply with the City's regulations. He pointed out on the map the variety of land uses in this area from residential to commercial. He requested that the City

Council approve the change to the comprehensive plan as well as the associated rezoning of this property to MDR. Hanks noted that the lot in question is only 5,500 square feet in size and the minimum lot size for a single family dwelling is 6,500 square feet. If the City Council does approve the change to the comprehensive plan and the rezone, the applicant will also need to get a variance. Elkins concurred noting that the lot area on the subject property is not adequate to support a single family residence let alone the proposed duplex. Mr. Olson would have to apply for and obtain a variance, and in that process demonstrate that there is a physical hardship as to why he should be allowed to put two units on the lot. Hanks added that in order for the Variance Board to approve the request, it must be demonstrated that there is a hardship. It also specifically states that the hardship cannot be self-imposed. This would be a large hurdle for the applicant to cross. If the variance is denied, there is no appeal process to the city council; their determination is binding. Hanks added that the burden is placed on the applicant to prove that a hardship exists. Kriebel stated that many homes in this area are used as multi-family dwellings. He added that he believes there are hundreds of illegal apartments, multi-family dwellings and rooms being rented throughout the community. Hanks agreed that there are a lot of structures that are being used as multi-family dwellings, however, many of them are probably non-conforming uses. They have been in existence longer than the City's regulations. Roll call vote was taken: AYE: Hanks, Murphy, Rodriguez and Waugh; NO: French, Kooiker, Hadley, Kriebel and Partridge. Motion to deny failed, 4-5. Motion was made by French and seconded by Kriebel to approve the requested Amendment to the Comprehensive Plan. Substitute motion was made by Kooiker and seconded by Rodriguez to continue this item until March 15, 2004. Rodriguez asked that the motion be amended to include that Agenda Item No. 86 (No. 04RZ001) also be continued to March 15<sup>th</sup>. Kooiker accepted the amendment. Upon vote being taken, the motion to continue carried unanimously. Hanks encouraged the petitioner to submit the necessary applications to the Variance Board because there is no sense in going through the rezone process without the variance.

The Mayor presented No. 04PD001, an appeal of the Planning Commission's decision on a request by Lorraine Hellevang for a **Major Amendment to a Planned Residential Development to reduce the rear yard setback from 25 feet to 13 feet** on Lot 1 of Block 3, Fairway Hills PRD, Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 4023 Pinehurst Court. Coral Stevens, President of the Board of Directors of the Fairway Hills Townhouse Association appeared before the Council and explained that the property owners in this development are opposed to the request before the Council at this time because of the negative impact it would have on property values and the disruption to the continuity of the existing town homes. Motion was made by Kooiker, seconded by Hadley and carried to continue this item until March 15, 2004.

The Mayor presented No. 04SV002, a request by Dream Design International, Inc. for a **Variance to the Subdivision Regulations to allow lots twice as long as wide as per Chapter 16.16 of the Rapid City Municipal Code** on the unplatted balance of the NW1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along the extension of Prestwick Road and Bethpage Drive. Motion was made by Kooiker, seconded by Rodriguez and carried to approve the requested Variance.

### ***Ordinances & Resolutions***

The Mayor presented No. 03RZ049, second reading of **Ordinance 4005**, a request by Franklin Simpson for a **Rezoning from General Agriculture District to Medium Density Residential District** on the following property: A parcel of land described by metes and bounds as beginning at the southwesterly corner of Tract H of the Wesleyan Christian Center, Thence first course: N76°34'25"E a distance of 263.55 feet to the SE corner of said Tract H; Thence second course: N69°06'06"E a distance of 98.75 feet to the westerly right-of-way line of Sunny Springs Road; Thence third course: S17°49'19"E a distance of 195.45 feet to an angle point of Sunny Springs Road right-of-way; Thence fourth course: S27°11'30"W a



distance of 14.14 feet to the north right-of-way line of Harmony Heights Lane; Thence fifth course: S72°12'18"W a distance of 256.21 feet to a point of curvature on the north line of Harmony Heights Lane; Thence sixth course: along an arc to the right, which radius is 170.00 feet an arc distance of 110.36 feet to a point of tangency on the north line of Harmony Heights Lane; Thence seventh course: N70°21'42"W a distance of 53.48 feet to the east right-of-way line of Plaza Boulevard; Thence eighth course: along the east right-of-way line of Plaza Boulevard, on an arc to the left, which radius is 333.35 feet an arc distance of 162.41 feet, and the chord bearing of N00°31'03"E a distance of 160.81 feet, to the point of beginning, said parcel of land containing 1.792 acres more or less, all lying in the NE1/4 SE1/4 of Section 27 and in the NW1/4 SW1/4 of Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located along Harmony Heights Lane. Motion was made by Hanks and seconded by Rodriguez to deny this item without prejudice. Upon vote being taken, the motion carried with Partridge voting no.

**Ordinance 4024** (No. LF021104-01R) entitled An Ordinance Adding a Definition of "Security Activity" to the Security License Regulations by Amending Section 5.52.010 of the Rapid City Municipal Code, was introduced. Upon motion made by Hanks, seconded by Waugh and carried, Ordinance 4024 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, March 15, 2004.

The next item discussed by the Council was No. 04RZ001, second reading of **Ordinance 4025**, a request by Bruce Olson for a **Rezoning from Low Density Residential District to Medium Density Residential District** on Lots 4 and 5, Block 1, Haley's Addition, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, located at 1123 North 7th Street. Motion was made by Kooiker, seconded by Rodriguez and carried to continue this item until March 15, 2004.

**Ordinance 4027** (No. LF021104-10) entitled An Ordinance Amending Motor Vehicle Noise Restrictions by Amending Chapter 10.24 of the Rapid City Municipal Code, having had the first reading on February 16, 2004, it was moved by Hanks and seconded by Rodriguez that the title be read the second time. The following voted AYE: Hanks, French, Murphy, Kooiker, Waugh, Rodriguez, Hadley, Kriebel and Partridge; NO: None, whereupon the Mayor declared the motion passed and Ordinance 4027 was declared duly passed upon its second reading.

**Ordinance 4028** (No. 04OA004) entitled An Ordinance Pertaining to Adoption of the Comprehensive Plan Amending the Public Notice Requirements in Advance of the Public Hearing by Amending Section 2.60.150 of The Rapid City Municipal Code, was introduced. Upon motion made by Hanks, seconded by Rodriguez and carried, Ordinance 4028 was placed upon its first reading and the title was fully and distinctly read, and second reading set for Monday, March 15, 2004.

### ***Legal & Finance Committee Items***

Motion was made by hanks, seconded by Waugh and carried to request the Mayor to appoint a **Technical Specification Review Committee** to review the City specifications, suggest any necessary amendments, review how they will be adopted, how they will be applied and bring the names back to the City Council for confirmation.

Motion was made by Hanks, seconded by Rodriguez and carried to request the Mayor to appoint task forces to review the **2003 International Building Codes** (residential and commercial) prior to adoption in July of 2004 and to bring those names forward to the City Council for confirmation; membership to include Residential Contractor Board, staff members Curt Bechtel (Building Inspection), and Tim Behlings (Fire Department); and members of the commercial codes will be Gene Fennel, Jaimie Stampie, David St. Pierre, Bill Barber, staff members Brad Solon (Building Inspection) and Tim Behlings (Fire Department).

The next item before the Council was an update on the Audio/Video System in the Council Chambers. Computer Center Director Doug Aldrich presented information on outstanding issues relative to the audio/video system in the Council Chambers, as well as related costs and possible funding sources. Kooiker stated that he thought the original contract included streaming video. Aldrich explained that the capability for streaming video was built into the new system, but not the actual process. He added that streaming video is an on-going expense of approximately \$6,000 per year. Motion was made by Hadley, seconded by Hanks and carried to approve the following recommendations, with funding to come from the council contingency fund and the cable franchise revenues. 1) Move two dais cameras to allow use of alternate cameras and reduce panning; 2) Switch from digital recording to DVD recording and 4) Telestrator installation

The next item discussed by the Council was a proposal to change the length of term for the **Office of Mayor** from two years to three years. Motion was made by Murphy and seconded by Waugh to approve. Mayor Shaw clarified the motion to read, "direct the City Attorney's Office to prepare an ordinance to implement the three-year proposal". Kriebel and Kooiker spoke against the motion in its current form. Hanks stated that he feels the length of term for the Office of Mayor should be decided by the voters, not the City Council. Kooiker stated that he would be interested in discussing this issue further in context of a city administrator and also discuss the idea of term limits for the positions of Mayor and Council. Substitute motion was made by Rodriguez, seconded by Waugh and carried to refer this issue to the next available Information Meeting, and request that information be brought forward on a variety of options that may be available.

Asst. Finance Officer Schmidt presented the sign-up sheet for the Local **Board of Equalization** Hearings which are scheduled the week of March 15-19, 2004. Schmidt encouraged the Council members to sign up for the sessions to meet with citizens relative to their property valuations.

The next item discussed by the Council was **Remodeling Options** for Public Works/Engineering Areas. The first option is construction of offices in the designated space for engineering and public works. Estimated costs for construction of six offices, removal of walls and remodeling the 1<sup>st</sup> floor area for technicians is \$30,700. The approximate cost to set the office area up with 80" partitions is approximately \$26,400. Coon added that the option involving the cubicles includes the moving of lights, moving duct work for ventilation, and removal of walls in what is now the Growth Management area. Coon requested direction from the Council on which option to pursue. Motion was made by Kooiker and seconded by Waugh to approve Option No. 2 (partitions), contingent upon following the bid process. Kooiker stated that this would be consistent with what is being done in the Growth Management Department. Shaw explained that the City is presently in the process of re-organizing and moving the Growth Management aspects to the front of the second floor. He noted that there may be some modules that are no longer used. Secondly, the city is in the process of advertising for a Public Works Director. He suggested that the Council approve the remodeling work on the first floor, but continue the remainder of the remodeling until we can further explore what equipment and modules might be available. Kooiker withdrew his motion. Motion was made by Kooiker, seconded by Hadley and carried to continue this item until it is brought back by the Mayor or Public Works Director.

### ***Public Works Committee Items***

Dan Staton from the South Dakota Department of Transportation appeared before the Council relative to parking on 5<sup>th</sup> Street during the **Omaha Street Reconstruction** Project. He distributed a packet of information which included a copy of the agreement signed by the City and the State relative to this project. Staton noted when this issue was addressed last year by the Council, traffic was flowing through the 5<sup>th</sup> Street/Omaha intersection. However, on March 8<sup>th</sup> that intersection will be blocked and traffic will be required to find alternate

routes and traffic congestion will be much worse. The intersections that will be most affected are 5<sup>th</sup>/Main and 5<sup>th</sup>/St. Joseph Street. Staton explained that with current traffic patterns, these left turn lanes are not adequate and traffic can back up into the thru lanes. He urged the Council to remove the parking on 5<sup>th</sup> street so that this area can be used to move traffic during the Omaha Street reconstruction. Hanks stated that the City Council has made a commitment to the DOT that the parking on 5<sup>th</sup> Street, specifically between St. Joe and Omaha Street, will be removed at a time when it can be demonstrated that there is a true need to actually remove it. Motion was made by Hanks and seconded by Rodriguez that the Council pass a resolution to remove the parking on 5<sup>th</sup> Street between St. Joe and Omaha Street for the duration of the construction while the intersection at 5<sup>th</sup> & Omaha is closed. Hanks explained that when the intersection is closed, there will be double turn lanes and no parking allowed. When the intersection opens back up, the parking will be restored. Mayor Shaw asked who would pay for striping the parking when it is restored. Staton noted that there is no funding in the construction contract to stripe for parking on 5<sup>th</sup> Street. Hanks stated that this would be a cost to the city. Staton stated that according to the present schedule, it is anticipated that the 5<sup>th</sup> Street intersection will opened by July 1<sup>st</sup>. Kooiker stated that he is concerned that the public was not notified of the proposed action by the Council relative to parking on 5<sup>th</sup> Street. The item on the agenda only refers to a presentation by the DOT on 5<sup>th</sup> Street Parking. Substitute motion was made by Kooiker and seconded by French to request that staff draft a resolution on this issue to be submitted at the next Public Works Committee meeting for consideration. Hanks stated that the reality of the matter is that the city will have to remove the parking on 5<sup>th</sup> Street. He would hate to see a bottle neck and traffic congestion in the downtown area while this issue is discussed by the City Council. Kriebel spoke in favor of delaying action on this item so that notice can be given to the affected business owners. Rodriguez stated that the downtown business owners understand that they will lose the parking temporarily, but that the parking will be restored when the construction project is done. Hadley spoke against the substitute motion noting that the discussion which took place last year on this item explained that the parking would be removed when the construction project mandated it. He agreed that the parking would be restored when the intersection is opened. Kooiker withdrew his substitute motion with the understanding that the affected business owners were notified and aware of what is going on relative to the parking issues. Upon vote being taken, the original motion carried unanimously.

Motion was made by Hanks and seconded by Waugh to allocate \$144,300 from the CIP Street and Drainage Line Item for the **Lange Road Construction Project**. Kriebel asked why the City is participating financially in this project. Growth Management Director Elkins explained that the original frontage road was a county highway, however, when it was annexed it became the city's responsibility. During discussions with DOT staff, the city has looked at a number of options and alternatives. If nothing is done at this time, it will be the city's responsibility to deal with in the future. DOT is willing to partner in this project and the affected land owner is willing to contribute \$100,000 to the project. The project will address safety issues and make sure that this intersection works during the motorcycle rally. It will also allow the motorcycle business to expand which will provide increased sales tax revenue for the city and state. Upon vote being taken, the motion carried unanimously.

Motion was made by Kooiker, seconded by Hanks and carried to approve No. CC030104-09 - Authorize staff to advertise for bids for **Lange Road Relocation** at Exit 55 (Deadwood Avenue Project No. ST03-1253).

Motion was made by Kooiker, seconded by Rodriguez and carried to approve No. CC030104-10 – Authorize Mayor and Finance Officer to sign a **Cost Sharing Agreement** with Rapid City and Sturgis Motorcycles, Inc. dba Black Hills Harley Davidson.

Motion was made by Kooiker, seconded by Rodriguez and carried to approve No. CC030104-11 – Authorize Mayor and Finance Officer to sign Amendment #1 to the SDDOT Agreement for the **Lange Road Construction Project**.

Motion was made by Kooiker and seconded by French to request that staff proceed with a contracted lighting service and install three 250 watt flood lights in the **Denver Park area**. Pat Clinch, President of the Rapid City Youth Soccer League, explained that most of the Denver Parks area consists of a soccer field and the lighting of this area is a security issue that needs to be addressed for the betterment of the community. Project Engineer Rod Johnson explained that staff is recommending that three flood lights be installed on an existing light pole. Light sensors would trigger when the lights come on and go off. He submitted a map of the area which included the location of the light pole and demonstrated how the area would be affected by the addition of the lights. Rodriguez asked who would pay for the costs involved with these lights. Johnson explained that these lights would be located on a pole owned by Black Hills Power & Light. As a result, the lights would be owned and maintained by them. There is a special installation charge of \$356 which would be charged to the city over ten years. The city would be looking at a monthly charge of just under \$60 for the 250 watt bulbs. If it is determined that 400 watt flood lights are needed in this area, the cost would increase to approximately \$106 per month. Murphy spoke against putting the lights on this pole which will light up a flood area. He suggested that the light be located at the end of the parking lot. Kooiker added that the North Rapid Civic Association and the Weed and Seed organizations are in favor of having these lights installed. He clarified that his motion is to authorize the Mayor and Finance Officer to sign the contract for this project. Hanks called the question and there were no objections. Upon vote being taken, the motion carried with Murphy voting no.

### ***CIP Committee Items***

Motion was made by Hanks, seconded by French and carried to approve the Updated CIP Spreadsheet.

Motion was made by Hanks, seconded by Rodriguez and carried to approve revisions to the Streets & Drainage Line Item in the CIP Fund.

### ***Bills***

The following bills having been audited, it was moved by Waugh, seconded by Rodriguez and carried to authorize the Finance Officer to issue warrants or treasurers checks, drawn on the proper funds, in payment thereof:

Payroll Paid Ending 02-29-04, Paid 02-27-04	936,609.72
Payroll Paid Ending 02-21-04, Paid 02-27-04	627,697.91
Payroll Paid Ending 02-21-04, Paid 02-27-04	1,580.80
Pioneer Bank, Taxes Paid 02-27-04	225,265.85
Pioneer Bank, Taxes Paid 02-27-04	149,793.36
Pioneer Bank, Taxes Paid 02-27-04	119.78
First Administrators, claims paid 2-18-04	40,986.59
First Administrators, claims paid 2-24-04	83,844.07
Canyon Business Products, Grant-recorders	4,445.50
United States Postmaster, billing postage	1,100.00
Computer Bill List	<u>2,280,610.49</u>
Total	<u>\$4,352,054.07</u>

Payroll Paid Ending 02-21-04, Paid 02-27-04	2,740.80
Pioneer Bank, Taxes Paid 2-27-04	202.23
Standard Life, insurance correction	0.02

City of Rapid City, postage	3.26
Johnson Machine, battery	56.05
Marlin Leasing, copier lease	6.83
Philfleet, Gasoline	77.81
Total	<u>\$4,355,141.07</u>

***Executive Session***

Motion was made by Rodriguez, seconded by Waugh and carried to go into executive session to discuss personnel matters. No action is expected. The Council came out of executive session at 11:50 and no report was given.

As there was no further business to come before the Council at this time, the meeting adjourned at 12:05 A.M.

CITY OF RAPID CITY

ATTEST:

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Mayor

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Finance Officer  
(SEAL)